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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,777	07/10/2003	Mark J. Bauckman	Z0030/282820	1998
23370	7590	04/08/2005	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			PRINCE, FRED G	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,777

Applicant(s)

BAUCKMAN ET AL.

Examiner

Fred Prince

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19 and 21-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 7-13, 15-17, 19 and 21 is/are allowed.
6) ☐ Claim(s) 1-4, 6, 14, 23, 24 and 26-31 is/are rejected.
7) ☐ Claim(s) 5, 22 and 25 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0205.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 1-31 is withdrawn in view of the reference(s) to Supra (US Pat No 6,292,969), Denkewicz, Jr. et al. (US Pat No 6,200,487), and Frentzel (US Pat No 4,776,953). Rejections based on the reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 14, 23, 24, 26, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Denkewicz, Jr. et al.

Denkewicz, Jr. et al. teach a body (14, 18) automatically displaceable within a swimming pool, a non-spherical float (30) contained within the body but visible through a window (52C).

4. Claims 2-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Supra. Supra teaches a body (10) automatically displaceable within a swimming pool (col. 5, lines 18-24), a generally egg-shaped cross-sectioned float (18a) contained within the body within a buoyancy chamber (Fig. 7).

5. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Frentzel.

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Frentzel teaches a body (32) automatically displaceable within a swimming pool, means for indicating the temperature of the water (col. 5, lines 48-50).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 27-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Denkewicz, Jr. et al.

Denkewicz, Jr. et al. is described above. Denkewicz, Jr. et al. also disclose a hose (col. 4, lines 54-57) connected to the body. Denkewicz, Jr. et al. do not explicitly disclose a laterally displaceable body.

It is submitted that it is conventional in the art to use laterally displaceable pool cleaners in order to, for example, clean different areas of the pool. Accordingly, it would have been readily obvious for the skilled artisan to make the body laterally displaceable in order to, for example, clean different areas of the pool.

8. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frentzel.

Frentzel is described above. Frentzel also discloses a hose (34) connected to the body. Frentzel does not explicitly disclose a laterally displaceable body.

It is submitted that it is conventional in the art to use laterally displaceable pool cleaners in order to, for example, clean different areas of the pool. Accordingly, it would have been readily obvious for the skilled artisan to make the body laterally displaceable in order to, for example, clean different areas of the pool.

Allowable Subject Matter

9. Claims 7-13, 15-17, 19, and 21 are allowed.
10. Claims 5, 22, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Per claim 5, in the examiner's opinion, while claim 2 is not patentable for the reasons provided above, the prior art fails to teach or render obvious the float providing temperature information.

Per claims 7-13, 15-17, 19, and 21, the claims are allowed for the reasons presented in the Remarks received on October 5, 2004.

Per claim 22, while claim 1 is not patentable for the reasons presented above, the prior art does not teach or fairly suggest a float within the body that protrudes outside the body.


Per claim 25, while claim 24 is not patentable for the reasons presented above, the prior art does not teach or fairly suggest modifying the invention of Denkewicz, Jr. et al. such that the float is generally egg-shaped.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724